



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

2005 APR 27 PM 12:21

FILED
EPA REGION VII
HEARING CLERK

DOCKET NO.: FIFRA-08-2005-0004

IN THE MATTER OF:

Horizon Co-op, Inc.
113 Central Avenue
Wiggins, Colorado,

RESPONDENT

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)
) **FINAL ORDER**
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Pursuant to 40 C.F.R. Section 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

April 27, 2005
DATE

Alfred C. Smith
Alfred C. Smith
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2005 APR 26 PM 2:56

Docket No. FIFRA-08-2005-0004

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:

Horizon Co-op, Inc.
113 Central Avenue
Wiggins, Colorado,

Respondent

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) **CONSENT AGREEMENT**
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Complainant, United States Environmental Protection Agency, Region VIII ("EPA"), and Horizon Co-op, Inc. ("Respondent"), by their undersigned representative(s), hereby consent and agree as follows:

I. PRELIMINARY STATEMENT

1. This matter is subject to 40 C.F.R. Part 22. This Consent Agreement is entered into by the parties for the purpose of concluding this matter, as provided for in 40 C.F.R. section 22.18(b)(2).
2. The Complaint filed in this matter alleges that Respondent sold a restricted use pesticide ("RUP") to an uncertified person, in violation of section 12(a)(2)(F) of FIFRA, 7 U.S.C. section 136j(a)(2)(F).
3. This Consent Agreement applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in

the constitution of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Consent Agreement.

4. Respondent waives its right to a hearing on any issue of law or fact set forth in the Complaint.
5. Respondent admits the jurisdictional allegations and neither admits nor denies the specific factual allegations contained in the Complaint and in the Consent Agreement.

II. FACTUAL STIPULATIONS

6. Respondent sold a RUP to an uncertified person on or about June 7 2004.
7. An employee of Respondent knowingly changed the certification information of a customer in its computer records to circumvent Respondent's internal procedures designed to prevent the sale of a RUP to an uncertified person. The employee's actions led to the sale of a RUP to an uncertified person in violation of FIFRA 12(a)(2)(F), 7 U.S.C. section 136j(a)(2)(F).

III. TERMS OF SETTLEMENT

8. The Complaint filed in this matter proposed a higher penalty assessment than the amount agreed to herein. For good cause shown, specifically, Respondent's cooperation and disclosure in this matter, and for the purposes of settlement,

Complainant agrees to reduce the penalty proposed in the Complaint to FIVE THOUSAND EIGHT HUNDRED AND FIFTY DOLLARS (\$5,850.00).

9. Respondent consents to the issuance of a Final Order which incorporates the terms and conditions of this Consent Agreement, and to pay the civil penalty set forth in Paragraph ten (10) below.
10. Respondent agrees to pay a penalty in the amount of FIVE THOUSAND EIGHT HUNDRED AND FIFTY DOLLARS (\$5,850.00).
11. Respondent agrees to pay the above stated penalty amount on or before May 30, 2005. This payment shall be made by remitting a cashier's or certified check for that amount, payable to "Treasurer, United States of America," to:

Mellon Bank
EPA Region 8
(Regional Hearing Clerk)
P.O. Box 360859
Pittsburgh, PA. 15251-6859

The check shall reference the name and address of Respondent's facility and the EPA docket number (Docket No. FIFRA-08-2005-0004) of this action. A copy of the check shall be sent simultaneously to:

Tim Osag
Technical Enforcement Program (8ENF-T)
U.S. EPA Region VIII
999 18th Street, Suite 300
Denver, Colorado 80202-2466

12. Respondent agrees and consents that if Respondent fails to pay the penalty amount on or before the due date set forth in paragraph eleven (11) above, interest on the penalty amount or any unpaid balance shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of twenty dollars (\$20.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of ten dollars (\$10.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid by the due date set forth in Paragraph eleven (11) above.
13. This Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.
14. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the specific violations alleged in the Complaint filed in this matter.
15. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to bind the parties to

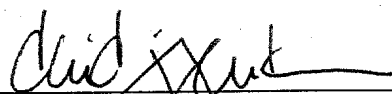
the terms and conditions of this Consent Agreement and to execute and legally bind that party to this Consent Agreement.

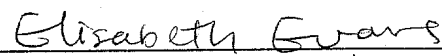
16. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this matter.


IN THE MATTER OF: Horizon Co-op, Inc.
Docket No. FIFRA-08-2005-0004

UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, REGION 8,
OFFICE OF ENFORCEMENT, COMPLIANCE, AND
ENVIRONMENTAL JUSTICE,

Complainant.

Date: 4/25/05 By: 
Michael T. Risner, Director
David J. Janik, Supervisory
Enforcement Attorney
Legal Enforcement Program

Date: 4/25/05 By: 
Elisabeth Evans, Director
Technical Enforcement Program

Date: 4/21/2005 By: 
Eduardo Quintana
Enforcement Attorney
Legal Enforcement Program
Phone: (303)-312-6924
FAX: (303) 312-6953

IN THE MATTER OF: Horizon Co-op, Inc.,
Docket No. FIFRA-08-2005-0004

Horizon Co-op, Inc.,
Respondent.

Date:

4-19-05

By:



NAME: Paul Rockwell
TITLE: General Manager

IN THE MATTER OF: Horizon Co-op, Inc.
DOCKET NO.: FIFRA-08-2005-0004

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of April, 2005, I have caused true copies of the subject, CONSENT AGREEMENT/FINAL ORDER, to be served on the parties as follows:

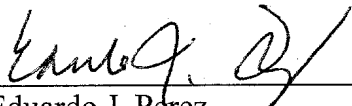
A true copy was hand delivered to:

Eduardo Quintana
Enforcement Attorney, USEPA
999 18th Street, Suite 300
Denver, CO 80202-2405

A true copy was sent via First Class Mail to:

Paul Rockwell, General Manager
Horizon Co-op, Inc.
113 Central Avenue
Wiggins, CO 80654

4/25/05
Date



Eduardo J. Perez
Acting Regional Hearing Clerk